

IT IS SO ORDERED.

Dated: 07 June, 2011 04:12 PM


RANDOLPH BAXTER
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	Case No. 10-15099
)	
Kiebler Recreation, LLC)	Chapter 11
)	
Debtor)	Judge Randolph Baxter

**AGREED ORDER GRANTING EMERGENCY MOTION
OF THE UNITED STATES TRUSTEE FOR AN
ORDER DIRECTING APPOINTMENT OF A CHAPTER 11 TRUSTEE**

This matter having come before the Court at an emergency hearing on June 7, 2011 (the "Hearing"), on the (i) Emergency Motion of the United States Trustee for an Order Directing Appointment of a Chapter 11 Trustee (the "UST Motion for Trustee") under §1104(a) of Title 11 of the United States Code §§ 101, et seq. (the "Bankruptcy Code") filed on June 3, 2011 and (ii) Emergency Motion of Official Committee of Unsecured Creditors (the "Committee") for Entry of an Order Appointing a Chapter 11 Trustee filed ("Committee Motion for Trustee" and together with the UST Motion for Trustee, the "Motions for Trustee") on June 3, 2011; of and by agreement of the United States Trustee, the Committee and Kiebler Recreation, LLC (the "Debtor"), as signified by the signatures of their respective counsel below, and based upon the pleadings filed in

this case to date, including but not limited to Huntington National Bank's Response in Support of Emergency Motions of Official Committee of Unsecured Creditors and the United States Trustee for Entry of an Order Appointing a Chapter 11 Trustee Pursuant to 11 U.S.C. §§ 105(a) and 1104(a) (the "Huntington Response"), and based upon the entire record made at the Hearing, and after due deliberation and sufficient cause the Court having determined that the entry of this Order is in the best interests of the Debtor's estate, and the Court being in all ways duly and sufficiently advised, the Court hereby makes these following findings of fact and conclusions of law:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1334 and the order of reference entered in this District on July 16, 1984, pursuant to 28 U.S.C. § 157, venue is proper in this Court pursuant to 28 U.S.C. §§1408 and 1409, and this is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), (M) and (O)

2. Service of the Motions for Trustee and the notice of the Hearing was sufficient under the circumstances and any requirement for other or further notice shall be, and it hereby is dispensed with and waived.

3. The Court, having been asked to consider the Motions for Trustee, and the Court being authorized to enter final judgment on the Motions for Trustee, this Order constitutes the Court's findings of fact and conclusions of law under Bankruptcy Rule 7052.

4. The Court having considered the legal and factual bases set forth in the Motions for Trustee and the statements of counsel at the Hearing, determines that just cause has been shown for the relief granted herein.

5. The Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code on May 26, 2010.

6. The Debtor operates Peek’N Peak Resort and Spa, a recreational and tourist complex in Chautauqua County, New York. Debtor’s Sole Manager is Paul E. Kiebler IV.

7. The United States Trustee, the Committee and the Debtor have agreed to the appointment of a chapter 11 trustee in this case.

8. Based upon the record presented to the Court, the United States Trustee, the Committee and the Debtor have requested immediate entry of this Order.

9. This Court concludes that the entry of this Order, including, without limitation, the direction to appoint a chapter 11 trustee, is in the best interest of the Debtor’s estates and creditors.

THEREFORE, UPON GOOD CAUSE SHOWN, IT IS HEREBY ORDERED, ADJUDGED, DECREED, EFFECTIVE IMMEDIATELY, AND AGREED AMONG THE PARTIES HERETO THAT the UST Motion for Trustee is hereby GRANTED, the Committee Motion for Trustee is rendered moot, the Huntington Response is overruled on the merits, and the United States Trustee is hereby directed to appoint a chapter 11 trustee.

###

Have Seen, Approve and Agree for Entry:

/s/ Robert Folland

Robert C. Folland (0065728)
Andrew L. Turscak, Jr. (0073851)
THOMPSON HINE LLP
3900 Key Center
127 Public Square
Cleveland, OH 44114-1291
216.566.5500 (phone)
216.566.5800 (facsimile)
Robert.Folland@thompsonhine.com
Andrew.Turscak@Thompsonhine.com

Counsel for Debtor

/s/ Ronna G. Jackson

Ronna G. Jackson (#0080432)
Trial Attorney
U.S. Department of Justice
Office of the U.S. Trustee
H. M. Metzenbaum U.S. Courthouse
201 Superior Avenue East, Suite 441
Cleveland, Ohio 44114-1240
(216) 522-7800, ext. 253 (phone)
(216) 522-7193 (facsimile)

Counsel for United States Trustee

/s/ Daniel A. DeMarco

Daniel A. DeMarco (0038920)
Hahn Loeser & Parks LLP
200 Public Square, Suite 2800
Cleveland, OH 44114
(216) 621-0150 (phone)
(216) 241-2824 (fax)
dademarco@hahnlaw.com

Counsel for the Committee

SERVICE LIST

- Jeffrey Baddeley jbaddeley@ulmer.com
- Kathleen M. Bennett kbennett@bsk.com, khourihan@bsk.com; kdoner@bsk.com
- Lawrence C Bolla lbolla@quinnfirm.com,
tsapper@quinnfirm.com; dcorneilius@quinnfirm.com; mmiller@quinnfirm.com; npagliari@quinnfirm.com; mkruszewski@quinnfirm.com
- Carrie M Brosius cmbrosius@vorys.com, mborr@vorys.com
- Brian J. Butler bbutler@bsk.com, jheisler@bsk.com; kdoner@bsk.com
- Daniel A DeMarco dademarco@hahnlaw.com, hlpcr@hahnlaw.com
- Stephen A. Donato sdonato@bsk.com,
kdoner@bsk.com; tayers@bsk.com; tvanetti@bsk.com
- Robert C Folland rob.folland@thompsonhine.com
- Joseph D. Frank jfrank@fgllp.com, ccarpenter@fgllp.com
- Bridget Aileen Franklin bfranklin@brouse.com
- Garry M Graber ggraber@hodgsonruss.com,
rleek@hodgsonruss.com; mmuskopf@hodgsonruss.com
- Joseph F. Gula jgula@kmgslaw.com,
jgula@roadrunner.com; mwernicki@kmgslaw.com
- Mark L. Hankin mhankin@hankinmazel.com
- Kenneth C Johnson kjohnson@bricker.com,
rdelsignore@bricker.com; jearley@bricker.com

- Alan M Koschik akoschik@brouse.com, tpalcic@brouse.com
- Philip E Langer planger@porterwright.com, nrepka@porterwright.com
- John P. Lennon jplennon@trialadvocates.com
- Marc Merklin mmerklin@brouse.com, tpalcic@brouse.com
- Ingrid S. Palermo ipalermo@bsk.com,
kdoner@bsk.com;sheffner@bsk.com;tvanetti@bsk.com
- Matthew E. Parkins mparkins@smdklaw.com, bmccullough@smdklaw.com
- Drew T Parobek dtparobek@vorys.com
- Curtis L. Tuggle curtis.tuggle@thompsonhine.com
- Andrew L. Turscak andrew.turscak@thompsonhine.com
- Susan C. Von Reusner susan.vonreusner@ag.ny.gov, lisa.burianek@ag.ny.gov
- Mark A. Weintraub Mark.Weintraub@ThompsonHine.com
- Linda E White linda.white@ag.ny.gov
- Christopher B. Wick cwick@hahnlaw.com, hlpcr@hahnlaw.com
- Joseph Zagraniczny jzagraniczny@bsk.com,
kdoner@bsk.com;amasica@bsk.com;stemmes@bsk.com;tvanetti@bsk.com